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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/078,287 | 02/15/2002 | Dean M. Rivera | KSCII.006A | 3445 |

20995 7590 07/31/2003

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EXAMINER

SZUMNY, JONATHON A

ART UNIT PAPER NUMBER

3632

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,287

Applicant(s)

RIVERA ET AL.

Examiner

Jon A Szumny

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

This is the second office action for application number 10/078,287, Folding Speaker Bracket, filed on February 15, 2002.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 7, 8 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 2,772,062 to Bowser.

Bowser '062 discloses a bracket (figure 1) located on the backside of a mounting surface having front and back opposite sides (figure 1) comprising a first half (figure 1) including a first mount half (figure 1) and a first support (figure 1), a second half (figure 1) including a second mount half (figure 1) and a second support (figure 1), wherein the first half is rotatably connected to the second half so as to define an axis about which the first and second half may rotate with respect to one another and wherein the first and second halves define an opening (figure 1); wherein the first half may rotate to and from an unfolded position; wherein the first and second halves constitute a mounting portion that is hinged at one or more locations along the approximate midpoint of the bracket; wherein the bracket includes means for folding the bracket comprising a pair of pin joints (20,21) comprising screws.

Claims 11, 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 3,633,250 to Romney.

Romney '250 discloses a bracket (figure 10) resting entirely against the backside (figure 10) of a mounting surface of a room (inherently) wherein the mounting surface has the backside facing away from the room and a separate front side (figure 10) facing the room, comprising a mounting portion (figure 10) comprising two speaker mounting halves defining an opening (figure 10), at least one support arm (figure 10), and folding means comprising the use of flexible material (figure 10); wherein the bracket can fold and unfold.

Claim Rejections - 35 USC § 103

Claims 3, 4, 9, 10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowser '062 in view of U.S. Patent number 1,602,729 to Walters.

Bowser '062 reveals the previous invention failing to specifically teach the bracket to include a spring that biases the rotation of the first and second halves towards the unfolded position. However, Walters '729 teaches a bracket (figure 2) including first and second mount halves (10,11) that may rotate with respect to one another to and from an unfolded position wherein a spring (20) biases the rotation of the halves towards the unfolded position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a spring with the bracket of Bowser '062 so as to bias the rotation of the halves toward the unfolded position (normal operating position as shown in figures 2 and 4) so as to provide for a more sturdy invention by ensuring the bracket is flat against the backside of the surface.

Response to Arguments

Applicant's arguments filed May 28, 2003 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-4 and 7-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ballantyne '420 divulges a bracket with first and second pivoting halves.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
July 25, 2003



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER